Q. Are you the same Andrea L. Kelly who submitted direct testimony in this proceeding?

A. Yes

Purpose and Overview of Rebuttal Testimony

Q. What is the purpose of your rebuttal testimony?

A. My rebuttal testimony responds to: 1) the testimony of Division of Public Utilities ("DPU") witness Dr. Artie Powell supporting the recovery in Utah rates of costs associated with the relicensing and settlement process costs for the Klamath Hydroelectric Project ("Project") and implementation of the Klamath Hydroelectric Settlement Agreement ("KHSA"), (collectively "Klamath-related costs"), 2) the testimony of Office of Consumer Services ("OCS") witness Ms. Michele Beck, recommending that the Commission deny recovery of all Klamath-related costs, and 3) the testimony of Utah Association of Energy Users Intervention Group ("UAE") witness Mr. Kevin C. Higgins, recommending that the Commission adopt adjustments and offsets to the Klamath-related costs. Specifically, my rebuttal testimony:

- Demonstrates that recovery of the Klamath-related costs as proposed by the Company is consistent with Commission precedent for the Company's other hydro-electric facilities, including facilities on the Lewis River, the North Umpqua River, the Bear River, the Condit River and the Hood River;

- Discusses how the Klamath-related costs benefit Utah customers by ensuring the ongoing operation of the Project, a system resource that will continue to benefit customers until 2020;
- Clarifies the Company's approach to the financial analysis of the KHSA, including numerous sensitivities, to reach the conclusion that the KHSA best protects customers from costs and risks than other alternatives;
- Explains that the delay in enactment of federal legislation and State of California funding does not impact PacifiCorp's contractual commitment under the KHSA to allow for facilities removal to occur in 2020;
- Discusses how customers are best protected by adjusting the depreciation lives for the Klamath assets to reflect the best estimate of their remaining useful lives – the year 2020. This creates a proper matching of costs and benefits and best protects customers from the risks of both a spike in depreciation expense (i.e., too long of a depreciation life) or front-end loading of depreciation expense (i.e., too short of a depreciation life);
- Discusses why it is appropriate for KHSA-related dam removal costs to be recovered from Utah customers under the Rolled-In methodology and raises concerns about the consequences of the Commission departing from the Rolled-In methodology for these particular system costs.

Ratemaking Treatment for Hydro-electric Facilities

Q. Please briefly describe the Company's relicensing activities across its hydro-electric facilities over the past decade or so.

A. The Federal Energy Regulatory Commission ("FERC") has recently issued new licenses for several of PacifiCorp's hydro-electric facilities in Oregon, Washington, Utah, Idaho and Montana. The license periods range in length from 30 to 50 years. In 2008, the FERC issued licenses for the Lewis River Projects (Merwin, FERC No. 935; Yale, FERC No. 2071; and Swift No. 1, FERC No. 2111) in southwest Washington and the Prospect Nos. 1, 2, and 4 Project (FERC No. 2630) on the Rogue River in southern Oregon. In the past five years, PacifiCorp has also received new FERC licenses for its 4 MW Bigfork project (FERC No. 2652) in Montana, the 80 MW Bear River project (FERC No. 20) in southeastern Idaho and the 194 MW North Umpqua River Project (FERC No. 1927) in southern Oregon.

The Company also agreed to decommission certain facilities in lieu of relicensing. In 1999, PacifiCorp reached a settlement agreement to decommission the Condit Project (FERC No. 2342) on the White Salmon River in Washington. The decommissioning began in 2011 and is ongoing. In 2003, PacifiCorp reached a settlement agreement to decommission the Powerdale Project (FERC No. 2659) on the Hood River in Oregon. The decommissioning occurred in 2010. In 2007, PacifiCorp also decommissioned the American Fork Project (FERC No. 696) in Utah.

Q. Please explain how the Commission has reflected costs associated with relicensing and settlement process costs for the Company’s other hydro-electric facilities in Utah rates.

A. The Commission has included the costs associated with relicensing and settlement process costs in rate base, amortized over the expected remaining life of the facilities, earning at the authorized weighted average cost of capital. These costs are then allocated using the Rolled-In allocation methodology. For example, relicensing costs related to the North Umpqua River were placed into rates in 03-2035-02, and relicensing costs related to the Lewis River were placed into rates in 08-035-38.

Q. Please explain how the Commission has reflected costs in Utah's rates associated with implementation costs of the various agreements listed above.

A. Capital costs have been included in the Company's rate base and operations and maintenance costs have been reflected as test period expenses in the year in which they occur. These costs are then also allocated using the Rolled-In methodology.

Q. Have all of these agreements and the related costs been evaluated in the context of a general rate case?

A. Yes.

Q. Is there anything uniquely different about the KHSA that would argue for a significant change in past Commission practice?

A. No. While each agreement has elements that may differ, the Company's approach to each of these relicensing or decommissioning settlements was to achieve a result that was cost-effective for customers against other alternatives while also mitigating risks.

Q. Is DPU witness Dr. Powell recommending that the Commission include the Klamath-related costs consistent with past Commission practice?

A. Yes.

Q. Does the Company agree with Dr. Powell's recommendation?

A. Yes. Dr. Powell also recommends an adjustment to the Klamath-related costs to incorporate updated costs for capital additions and AFUDC through March 2012 that were provided in the Company's first supplemental response to DPU 2.14. The Company also supports this adjustment.

Q. OCS witness Ms. Beck objects to including Klamath-related costs in this docket on the basis that there is not enough time to review those costs. Has there been sufficient time to consider these issues?

A. Yes. Klamath-related costs that are included in this case were included and debated in the Company's prior rate case as well as in the Multi-State Process ("MSP") docket (Docket 02-035-04) that considered amendments to the Revised Protocol allocation methodology. Thus, issues related to the KHSA are not new and have been the subject of Company and intervenor direct, rebuttal, and sur-rebuttal testimony, as well as ongoing data requests,[1] since the Company's September 2010 filing in the MSP docket. Thus, these issues have been thoroughly vetted, and all parties have had sufficient time to fully investigate the issues surrounding the relicensing and settlement process and the KHSA.

[1] See OCS 8.32 and 30.8 in the current proceeding. See OCS Set 21 in the prior rate case (Docket 10-035-124) as well as OCS's request for an on-site review of confidential documents related to the KHSA. See DPU 2.14 and 34.1 in this proceeding and DPU Set 8 and DPU 8.2 in the prior rate case (Docket 10-035-124).

Q. Have there been other opportunities for parties to understand the costs and the Company's rationale for entering into the KHSA?

A. Yes. The Company sponsored a technical workshop on February 15, 2011, as part of the MSP docket which was devoted exclusively to the Klamath relicensing and settlement process, the Company's rationale for entering into the KHSA and its confidential financial analysis of the KHSA as compared to other potential Project outcomes.

Q. Have Commissions from other states reviewed the relicensing and settlement process costs and the proposed change in depreciation lives in the context of a general rate case?

A. Yes. The states of California, Idaho, Oregon and Wyoming have all reviewed these costs in recent general rate cases.

Utah Customers Benefit from Klamath-related costs

Q. OCS witness Ms. Beck and UAE witness Mr. Higgins both assert that Utah customers will not benefit from the Klamath-related costs. Do you agree with these assertions?

A. No. The relicensing and settlement process and the KHSA have resulted in the continued operation of the Project for the benefit of customers until 2020 – 14 years of additional annual average generation of approximately 716,000 megawatt-hours beyond the 2006 expiration date of the Project' license. This additional generation has provided Utah customers substantial value since 2006 in the form of reduced net power costs and in the form of renewable energy credit sales revenues. For example, in 2010, Utah customers received an allocated share of approximately $3.3 million in renewable energy credit sales revenues. The Klamath-related costs that have been incurred, and that continue to be incurred through implementation of the KHSA, result in the Project continuing to generate low-cost, dependable power for customers in the test period and beyond.

Q. In order to continue Project operations, was the Company required to initiate and pursue the relicensing process?

A. Yes. The Company was required by the Federal Power Act[2] and relevant implementing regulations[3] to develop, file, and prosecute an application for a new operating license for the Project, which it did with the intent of relicensing the project so that it could continue to economically serve customers. Had the Company not pursued the relicensing and settlement process, the Company would have been required by applicable regulations[4] to surrender the Project license and immediately begin the process of decommissioning the Project – without the cost, risk, and liability protections afforded by the KHSA. Thus, the asset to be established for the relicensing and settlement process costs is currently used and useful in securing continued generation from the Project that benefits Utah customers.

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[2] 16 USC §§ 808, et seq.

[3] 18 CFR 5.17; 18 CFR 16.25.

[4] See 18 CFR 16.25(c) – "If no application for a new license is filed, the existing licensee must then file an application for surrender of the project."

Q. Are the interim measures for which the Company is seeking cost recovery in this proceeding related to the continued operation of the Project?

A. Yes. The interim measures were developed with the input of regulatory agencies to address applicable regulatory requirements of the Clean Water Act, the Endangered Species Act, and the Federal Power Act that would have been applied to the Project through the issuance of a new license. These interim measures are directly related to the Company's ability to continue operation of the Project for the benefit of its customers, providing mitigation for ongoing Project operations during the interim period prior to dam removal.

Q. Please summarize OCS witness Ms. Beck's recommendation with respect to the Klamath-related costs.

A. Ms. Beck proposes the following:

- Reject inclusion of the relicensing and settlement process costs;
- Reject inclusion of costs related to the implementation of the interim measures and other elements of the KHSA;
- Reject a change to the depreciation life of the existing rate base of the Project and maintain the current depreciation life that retires the assets in 2046; and
- Continue to include the virtually no-cost generation in net power costs.

Q. Is there a critical flaw in the logic of this recommendation?

A. Yes. For the Commission to adopt these recommendations, it would need to be convinced that the Company could continue full operation of the Project for forty years after the expiration of the license without incurring <u>any</u> additional costs to comply with:

- the Federal Power Act's requirements to pursue relicensing or in the alternative, decommissioning,
- the Endangered Species Act's requirements related to protected species, and
- the Clean Water Act's requirements related to water quality.

This is clearly not a feasible scenario.

Q. OCS witness Ms. Beck states that Utah customers should not bear any costs associated with the Project since the costs relate to "resolving Klamath basin regional interests and not the continued operation of a generating resource". (Beck, 121-122) Do you agree with that statement?

A. No. I believe Ms. Beck may be confusing the separate but related settlement agreement, the Klamath Basin Restoration Agreement ("KBRA") with the KHSA. The KBRA is an agreement among many parties to the KHSA, *excluding* PacifiCorp, that attempts to resolve basin-wide issues that are beyond the scope of Project relicensing and continued Project operations. The KHSA, by comparison, narrowly addresses the resolution of the relicensing process and the continued operation of the Project. As discussed above, the Company's ability to operate the Project for an additional 14 years beyond license expiration clearly benefits Utah customers.

Q. Ms. Beck's Exhibit OCS 2.1D contains a list of signatories to the KHSA in support of her assertion that Klamath-related costs should be excluded from Utah rates. Do the signatories to the KHSA represent a typical set of interests for relicensing and settlement discussions?

A. Yes. It is very typical for parties representing the interests of state, federal, tribal, environmental, water use and local communities to be involved in these types of settlements. Attached as Exhibit RMP___(ALK-1R) are the signatories to the settlement agreements related to the Lewis River facilities, the Condit facilities and the Bear River facilities proving this point. I also note that no state utility commission, consumer advocate or intervening party is a signatory to these other agreements. And no Utah party, including OCS, has requested to be a part of the Klamath settlement negotiations or intervened at FERC in the relicensing docket.

Q. Ms. Beck then states "placing all costs on ratepayers and any costs on Utah ratepayers who were not a participant to the negotiations is not a 'fair and balanced' outcome". Do you agree with this position?

A. No. Prudently incurred costs relating to the ongoing operation and decommissioning of generating assets are normally recovered from customers that benefit from the resource. Ms. Beck appears to believe a departure from that standard ratemaking practice is warranted for the Klamath assets but does not advance any rationale as to why this should be the case. In addition, Ms. Beck appears to articulate a standard in which a fair and balanced outcome can only result if customers are directly represented in negotiations – presumably by consumer advocates. However, PacifiCorp's negotiating strategy in arriving at the

KHSA, which it has consistently articulated to stakeholders, has been motivated by a desire to ensure that the resolution of the Project relicensing process would result in a fair and balanced outcome that protected the interests of its customers. To ensure this was the case, the Company developed four key negotiating principles, which I articulated in my direct testimony and which I followed with a discussion of how the KHSA protected customers from the uncertain costs of dam removal (Kelly direct, 566-584).

Q. UAE witness Mr. Higgins recommends that the Company be allowed full recovery of the Klamath relicensing and settlement process costs based on the presumption that these costs have been prudently incurred, but recommends an adjustment to limit the forward-going carrying costs related to the asset associated with these costs to the Company's long-term cost of debt. (Higgins, 329-335) Do you agree with the adjustment?

A. No. Mr. Higgins only offers the rationale that "The Company's expenditure on relicensing and settlement costs cannot reasonably be construed to contribute, directly or indirectly, to the provision of electric service to Utah customers." As discussed above, this simply isn't the case. Those costs are prudent and necessary to be able to provide customers with an additional 14 years of beneficial generation and potential renewable energy credit revenues from the Project. There is simply no support in the record for treating the Klamath relicensing and settlement process costs differently than past practices.

Financial Analysis of the KHSA

Q. Ms. Beck raises three concerns with the Company's Present Value Revenue Requirement ("PVRR") Analysis. The first concern regards the relatively small cost difference between the KHSA and the conservative base relicensing scenario. How do you respond?

A. As discussed in my direct testimony, if the PVRR analysis of the KHSA showed that it was significantly below the PVRR of the baseline relicensing case, the durability of the agreement would have been threatened. This base case analysis was also designed to be conservative in its assumptions.

Q. Please provide an example of a conservative assumption.

A. [redacted]

[redacted]

Q. Ms. Beck's second concern regards the fact that some assumptions may not prove out over time. How do you respond to this concern?

A. All financial analyses involving future resource decisions are necessarily based on assumptions based on the best available information at the time of the decision. This is recognized in ratemaking when a prudence determination is made without applying 20/20 hindsight and is the foundation of the integrated resource planning process. As mentioned above, this is why the assumptions were deliberately conservative in nature, and why sensitivities were conducted as discussed below.

Q. Ms. Beck also states that the Company "has a responsibility to plan toward a least cost standard considering risk". Did the Company's analysis of the KHSA meet this requirement?

A. Absolutely. The Company's sensitivity analyses were referenced in my direct testimony (line 699) and have been available for on-site inspection since the beginning of the proceeding. A confidential overview of the analytical approach and the alternatives considered is attached as Confidential Exhibit RMP___(ALK-2R). A summary of the results of these analyses are provided to the Commission as Highly Confidential Exhibit RMP___(ALK-3R). [redacted]

These sensitivity analyses further support the conclusion that the KHSA is in the best interests of customers based on an assessment of cost and risk, with substantial benefits to customers due to the fact that "under the KHSA, cost obligations are well–defined and largely capped." (Kelly Direct, 738-739). The primary benefit of the KHSA is to reduce the risk to customers of increasing costs that could result from proceeding with the relicensing process and implementing the measures that would be required to be included in a new project license. The protections of the KHSA represent a least cost and least risk alternative for customers.

KHSA Implementation Milestones

Q. OCS and UAE both cite concerns about the slippage of early milestones in the KHSA in support of their proposed adjustments. Has the timeline they reference changed the terms and conditions of the KHSA?

A. No. The terms and conditions of the KHSA remain the same. Under Section 7.3.8 of the KHSA, decommissioning and cessation of generation from the facilities is to occur in the year 2020. The current depreciation and amortization periods ensure that the assets are fully depreciated by the time the Klamath assets are removed from service.

Q. Does the KHSA contain any provision that allows the facilities removal date of 2020 to be automatically extended as a result of any slippage in the milestones related to passage of federal legislation, the Secretarial Determination or securing funding from the State of California?

A. No. There is no direct linkage between any of these milestones in the KHSA and the facilities removal date in the KHSA. The 2020 facilities removal date is of great importance to the parties to the KHSA, including the U.S. Department of the Interior, the State of California, and the State of Oregon. The 2020 facilities removal date is unaffected by the fact that federal legislation and the Secretarial Determination were not issued by March 31, 2012.

Q. Does the uncertain timing of Congressional authorization run counter to the structure of the KHSA obligations?

A. No. As noted above, parties to the KHSA were particularly concerned with achieving a 2020 date for facilities removal. In recognition of this concern, the KHSA was specifically drafted such that the 2020 facilities removal date targeted in the agreement would not be subject to delay as a result of delays in the interim milestones contained in the agreement. This provided additional certainty to KHSA parties as to the timing of facilities removal. As shown in Exhibit RMP___(ALK-4R), the U.S. Department of the Interior and the State of California have recently communicated with PacifiCorp confirming that it is their view that PacifiCorp remains contractually bound under the KHSA to transfer the Klamath facilities in 2020 should the Secretary of the Interior determine to proceed with facilities removal following the passage of federal legislation.

Q. Does the 2020 date for the facilities removal remain feasible?

A. Yes. There are almost eight years between now and 2020. This is a substantial amount of time such that a delay in federal legislation, or even potentially a delay in funding from the State of California, does not immediately threaten the 2020 facilities removal date. The U.S. Department of the Interior has already completed a detailed plan for facilities removal – which is a component of the Secretarial Determination – and has completed numerous engineering and environmental studies related to facilities removal that will be necessary for planning and permitting purposes. Thus, the roughly eight-year time period between now and 2020 appears adequate to obtain necessary legislation, funding and permits to allow for facilities removal to proceed on schedule.

Q. Have any parties to the KHSA withdrawn because the Federal legislation had not passed by March 31, 2012?

A. No. The U.S. Department of the Interior provided notice to KHSA parties in March 2012 that the Secretary of the Interior was not able to complete the Secretarial Determination process since Congress had not yet approved and endorsed the KHSA and the related Klamath Basin Restoration Agreement. All parties to the KHSA remain committed to implementation of the settlement with the understanding that the legislative process and timing is controlled by Congress and not the parties. In addition, no party to the KHSA has dropped support for the settlement.

Q. Does a delay in the enactment of federal legislation or State of California funding relieve the Company of any cost burdens related to ongoing implementation of the KHSA?

A. No. The KHSA includes a suite of interim measures that are intended to mitigate for effects of continued operation of the Klamath facilities until the anticipated decommissioning of the facilities. The Company continues to implement these interim measures, as contractually required by the KHSA, and as required by a recently issued Incidental Take Permit for threatened coho salmon.[5] This permit was issued to PacifiCorp by the National Marine Fisheries Service pursuant to Section 10(a) of the Endangered Species Act, and relies upon the mitigation provided by several of the interim measures contained in the KHSA. Implementation of the interim measures has resulted in a corresponding increase in OMAG as well as limited capital additions, which have been the subject of scrutiny in this case through data requests. These costs are all related to the continued operation of the Project beyond the term of its FERC license, which expired in March 2006.

Status of KHSA Legislation

Q. Ms. Beck attached a Klamath Falls Herald and News story to support her conclusion that "beyond the referral of S. 1851 to a committee, no action has occurred and none is expected". (Beck, 341-342). Do you agree with this assessment?

A. No. In fact the cited on pending federal legislation article explicitly reflects an

[5] See Federal Register notice, 77 FR 14734, pages 14734 -14735, March 13, 2012.

expectation by U.S. Senator Ron Wyden that action is occurring and will continue to occur to build bipartisan support. Once again, Ms. Beck quotes references to the KBRA rather than the KHSA related to the $500 million authorization. This authorization is referring to the cost to implement the KBRA. Successful implementation of the KHSA requires no federal appropriations.

Q. Ms. Beck also cites a May 25, 2012, petition to FERC by the Hoopa Valley Tribe requesting that FERC issue a declaratory order related to PacifiCorp's relicensing application. What is the status of this petition?

A. At this time FERC has taken no action on the tribe's petition, and has not noticed the tribe's petition for public comment as would occur if FERC intended to consider the tribe's request.

Risks of Delayed Implementation in Rates

Q. Do you believe it is in Utah customers' best interest to delay implementation of Klamath-related costs including extension of depreciation lives to a later proceeding?

A. No. There is no basis to set rates with the expectation that the Project will continue to provide service beyond 2020, let alone through 2046. This position, if adopted, would introduce significant risk that the Project assets would not be fully depreciated by the end of their operational life. It also would conflict with the intent of the KHSA, which was to moderate the customer impact, i.e., to spread the costs over as long a period as possible to reduce the impact to customers in a given time period. The impact to customers will be greater if depreciation of the facilities is delayed.

Q. DPU witness Dr. Powell estimated that deferring the recovery of the Klamath relicensing and settlement process costs in the last rate case will have resulted, by May 30, 2012, in an additional $8 million in AFUDC accruing on a total system basis since December 31, 2010. (Powell, 221-222) Do you agree with Dr. Powell's assessment?

A. Yes. Dr. Powell's analysis accurately portrays the increasing costs that Utah customers face as a result of delaying the recovery of these costs and Dr. Powell's concern regarding the increasing costs that Utah customers face as a result of deferral of the recovery of these costs is well founded.

Applying the Rolled-In Methodology to Dam Removal Costs

Q. With respect to the dam removal costs, both OCS and UAE propose to set rates in Utah based on an assessment of the Company's recovery in other states. How do you respond?

A. As discussed in my direct testimony, adoption of this approach would undermine the Commission's adherence to the Rolled-In allocation methodology. OCS and UAE have not presented a compelling argument for the Commission to deviate from its past practices for this single cost element. As presented above, the economic and risk reducing benefits to Utah customers of the KHSA – including the costs of dam removal – is compelling compared to a range of potential alternatives. The net power cost benefits will flow to Utah customers on a Rolled-In basis. Any future renewable energy credit sales revenues will flow to Utah customers on a Rolled-In basis. It is fair, then, that the full costs to achieve the benefits also flow to Utah customers on a Rolled-In basis. DPU witness Dr.

Powell applies this balanced approach when evaluating the costs of the KHSA in totality and recommending inclusion in Utah rates consistent with the Company's proposal.

Q. Does this conclude your rebuttal testimony?

A. Yes.